

REMARKS***Summary of the Response***

No claims are amended with the instant response. Thus, claims 14 – 30 remain pending. Reconsideration of the rejected claims in view of the following remarks is respectfully requested.

Summary of the Office Action

In the instant Office Action, the Examiner has objected to the drawings, and rejected claims 14 – 30 over the art of record. By the present remarks, Applicants submit that the objections and rejections have been overcome, and respectfully request reconsideration of the outstanding Office Action and allowance of the present application.

Interview Summary

Applicants gratefully acknowledge the courtesy extended to their representative in a telephone interview dated July 30, 2010. In the interview, Applicants' representative pointed out distinguishing features of the present invention in view of the applied prior art, and deficiencies in the Examiner's rejections, which are noted below. Furthermore, Applicants' representative and the Examiner discussed the outstanding objection to the drawings. Additionally, Applicants' representative and the Examiner discussed possible claim amendments to distinguish over the applied art.

With regard to the Interview Summary summarizing the interview conducted on July 30, 2010, Applicants note that the Examiner's summary is accurate.

Traversal of Objection to Drawings

The Examiner has objected to the drawings for purportedly failing to show every feature of the invention specified in the claims. Specifically, the Examiner asserts that “the ‘more than one’ vessel, more than one ‘feed space,’ and more than one ‘feed distribution space’ must be shown or the features canceled from the claims.” Further, the Examiner notes, that “[c]laim 14 and dependent claims are directed to ‘at least one’ referring to the elements discussed above, and the figures and specification supports only ‘one’ vessel.”

Applicants respectfully disagree that the claimed embodiments are not illustrated in the figures. Applicants note that the claims recite the phrase “at least one,” in regards to the vessel, the feed space and the feed distribution space, which clearly and unambiguously supports an interpretation of one or more, which is in contrast to the Examiner’s interpretation of the phrase “at least one” as requiring more than one. As the drawings clearly illustrate at least one vessel, at least one feed space and at least one feed distribution space, Applicants respectfully submit the drawings show every feature of the invention specified in the claims.

Accordingly, for at least these reasons, Applicants respectfully request the Examiner withdraw the objection to the drawings, and indicate that the drawings are acceptable.

Traversal of Rejection Under 35 U.S.C. § 112, 1st Paragraph

Applicants traverse the rejection of claims 14 - 30 for purportedly being non-enabling with regard to multiple vessels. The Examiner asserts that “the specification does not enable any person skilled in the art to which it pertains, or which it is most nearly connected, to provide a system with multiple vessels arrangement [sic] in the system the invention [sic] commensurate in scope with the claims.” Applicants respectfully disagree.

Applicants note the claims recite "at least one vessel" and the specification clearly discloses the features of the at least one vessel, as acknowledged by the Examiner. Notwithstanding the Examiner's unsupported assertion to the contrary, Applicants respectfully submit that one of ordinary skill in the art upon reading the instant specification, would readily understand the subject matter of the claimed embodiment, which includes at least one vessel, and the scope of the pending claims reciting at least one vessel. That is, Applicants submit that one of ordinary skill in the art of water filtration would clearly understand that an expressly claimed embodiment includes, *inter alia*, at least one vessel, as recited in the pending claims, and that the original disclosure clearly describes to one ordinarily skilled in the art how to make and use the claimed invention.

As such, for at least these reasons, Applicants respectfully submit the specification is enabling for each and every claim. Accordingly, Applicants respectfully request the Examiner withdraw the rejection of claims 14 - 30, and indicate that claims 14 - 30 are in compliance with 35 U.S.C. § 112, 1st paragraph.

Traversal of Rejection Under 35 U.S.C. § 112, 2nd Paragraph

Applicants traverse the rejection of claims 26, 29 and 30 for purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

With regard to claim 29, the Examiner considers this claim indefinite as it purportedly renders unclear the pump position as recited in claim 14. Claim 14 recites, in pertinent part:

. . . a feed pump for supplying the suspension to be filtered into the at least one feed space.

Claim 29 recites, in pertinent part:

... the at least one feed distribution space is arranged to directly feed the suspension to be filtered from the at least one feed distribution space to the at least one feed space.

According to MPEP 2173.02, the test for definiteness under 35 U.S.C. 112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986). Moreover, definiteness of claim language must be analyzed, not in a vacuum, but in light of: (A) the content of the particular application disclosure; (B) the teachings of the prior art; and (C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

Applicants respectfully submit that claim 29 is not indefinite. That is, claim 14 recites that a feed pump is used to supply the suspension to be filtered into the at least one feed space. Applicants submit that one of ordinary skill in the art would readily understand that claim 14 does not preclude the suspension to be filtered from passing through another element (i.e., the feed distribution space) prior to entering the at least one feed space. Applicants submit claim 14 recites that the feed pump is used to supply the suspension to be filtered from a place into the at least one feed space. Claim 14 does not specify that the feed pump is located directly upstream from the feed space. Furthermore, Applicants submit that claim breadth is not indefiniteness.

Thus, for at least these reasons, Applicants submit the recitation of claim 19 that the at least one feed distribution space is arranged to directly feed the suspension to be filtered from the at least one feed distribution space to the at least one feed space does not render claim 19

indefinite, and that one of ordinary skill in the art upon reading the instant specification, would readily understand the features of claim 19.

With regard to claims 26 and 30, Applicants note that while stating these claims were rejected, the Examiner failed to specifically address why these claims were rejected as indefinite. Moreover, Applicants note that claim 26 (in contrast to claim 14) does not include a recitation of the feed pump. As such, Applicants submit that the rejection of claim 29 (which Applicants have traversed above) would not be applicable to claim 30.

Accordingly, Applicants respectfully request the rejection of claims 26, 29 and 30 be withdrawn, and the Examiner indicate that claims 26, 29 and 30 are in compliance with 35 U.S.C. § 112, 2nd paragraph.

Traversal of Rejection Under 35 U.S.C. § 103(a)

1. Over COTE in view of GUNGERICH

Applicants traverse the rejection of claims 26, 28 and 30 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,375,848 to Cote et al. [hereinafter COTE] in view of U.S. Patent No. 6,656,356 to Gungerich et al. [hereinafter GUNGERICH]. The rejection is respectfully traversed.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness. See MPEP §2142. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of

ordinary skill in the art, to modify the reference or to combine reference teachings.¹ Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants submit that the applied references, alone or in combination, do not teach or suggest each of the features of the present invention.

Independent Claim 26

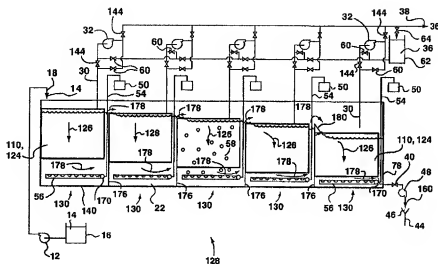
Claim 26 recites, in pertinent part:

... supplying a suspension from at least one feed distribution space positioned laterally at least partially around at least one feed space to the at least one feed space.

In addressing claim 26, the Examiner asserts COTE teaches a method of filtering a suspension comprising supplying a suspension from at least one feed distribution space positioned laterally at least partially around at least one feed space to the at least one feed space. More specifically, with reference to Figure 8 of COTE (reproduced below), the Examiner designates two of the plurality of adjacent tanks 130 (which COTE describes as serially arranged tanks of the same configuration for serially filtering water) as the feed distribution space and the feed space. Moreover, the Examiner asserts the Examiner-designated feed distribution space (i.e., one of the tanks 130) is "surrounding" the Examiner-designated feed space (i.e., another of

¹ While the *KSR* court rejected a rigid application of the teaching, suggestion, or motivation ("TSM") test in an obviousness inquiry, the [Supreme] Court acknowledged the importance of identifying "a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does" in an obviousness determination. *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

the tanks 130), as the two adjacent tanks have "a common wall" (i.e., partition 176). Applicants respectfully disagree.



Applicants submit the Examiner-designated feed distribution space (i.e., one of the tanks 130) is not arranged partially around the Examiner-designated feed space (i.e., another of the tanks 130), or "surrounding" as the Examiner asserts. Instead, as shown in Figure 8, the tanks 130 abut one another at a planar surface (i.e., partition 176). Moreover, Applicants note that the Examiner has not identified any express or implied teaching in COTE that even arguably suggests that the ordinarily skilled artisan would understand that the Examiner-designated feed distribution space is at least partially around the Examiner-designated feed space. As such, COTE does not teach or suggest supplying a suspension from at least one feed distribution space positioned laterally at least partially around at least one feed space to the at least one feed space.

Moreover, Applicants submit GUNGERICH does not cure the above-noted deficiencies of COTE. Applicants note the Examiner cited GUNGERICH for its purported teaching of other features of the present invention. Therefore, Applicants submit no reasonable combination of

COTE and GUNGERICH teaches or suggests each of the features of the presently claimed invention, and fails to render unpatentable the features of claim 26.

Furthermore, Applicants submit the Examiner is designating what is described by COTE as two instances of the same element (i.e., two of the tanks 130) as two distinct features of the presently claimed invention (i.e., the recited feed distribution space and feed space). As such, Applicants submit the Examiner's rejection is *per se* improper, as the Examiner has designated two instances of the same element as two distinct features of the present invention.

Additionally, Applicants submit that COTE and GUNGERICH both refer to open membrane systems where the suspension is sucked from outside the membrane fibres into the hollow space inside the membrane fibres. See, e.g., COTE, column 4, lines 38-42, where the retentate is outside and the permeate is inside the hollow fibre, and, e.g., GUNGERICH, abstract, term "suction driven."

In contrast, the present invention, uses pressure driven filtration where the filtration unit is closed and the suspension to be filtered first enters the hollow space inside the membrane fibres (from their bottom) and is pressed through the walls of the membrane fibre outside the membrane fibre. The permeate is therefore to be found in the closed space outside the hollow fibres whereas the retentate is inside the hollow fibres and leaves them at the top of the fibres.

Thus, no proper combination of COTE and GUNGERICH teaches or suggests "feeding the suspension through to a plurality of individually removable aerated filter modules arranged in at least one vessel in a direction cross-wise to a direction in which the suspension is supplied to the at least one feed space, whereby a permeate flows into at least one permeate space adjacent the plurality of individually removable aerated filter modules," as recited in claim 26.

Moreover, Applicants note that the Examiner has not identified any technical reasoning that arguably suggests that it would have been obvious to modify any proper combination of COTE and GUNGERICH to successfully achieve the claimed invention. For example, Applicants submit the different technical functions when using inside-outside filtration or outside-inside-filtration all technical means (pumps, etc.) needed for the respective function have to be arranged differently and therefore inside-outside filtration simply cannot be equated with outside-inside-filtration.

Therefore, for at least these reasons, Applicants submit no reasonable combination of COTE and GUNGERICH teaches or suggests each of the features of the presently claimed invention, and fails to render unpatentable the features of claim 26.

Dependent Claims 28 and 30

Applicants submit that claims 28 and 30 are allowable at least for the reason that these claims depend from allowable claim 26, and because these claims recite additional features that further define the present invention. In particular, Applicants submit that no proper combination of COTE and GUNGERICH can render obvious under 35 U.S.C. § 103(a) the embodiments of the invention recited in at least claims 28 and 30.

Accordingly, for at least these reasons, Applicants request that the Examiner reconsider and withdraw the rejection of claims 26, 28 and 30 under 35 U.S.C. § 103(a) and indicate that claims 26, 28 and 30 are allowable.

2. Over VRANITZKY in view of WATAYA and BLASE

Applicants traverse the rejection of claims 14 – 21 and 25 – 28 under 35 U.S.C. § 103(a) as being unpatentable over International Patent No. WO 02/26363 to Vranitzky et al. [hereinafter VRANITZKY] in view of European Patent No. EP 0734758 to Wataya et al. [hereinafter WATAYA] and International Patent No. WO 00/20104 to Blase et al. [hereinafter BLASE]. The rejection is respectfully traversed.

Applicants submit that the applied references, alone or in combination, do not teach or suggest each of the features of the present invention. Additionally, Applicants submit VRANITZKY teaches away from the Examiner-proposed combination of VRANITZKY, WATAYA and BLASE.

Furthermore, Applicants again note that the VRANITZKY document is not in English. As it cannot be discerned from the drawings alone whether VRANITZKY teaches against any of the obviousness combinations with the other applied documents of record, Applicants submit that a Final rejection cannot be properly issued until a translated document is provided for the record. Accordingly, if the Examiner maintains a rejection over VRANITZKY, Applicants respectfully request the Examiner provide, in a new non-final action, a human-translated English-language translation of the VRANITZKY document.

Independent Claim 14

The present invention relates to a membrane filter system. Independent claim 14 recites, in pertinent part:

... at least one feed space for a common supply of the suspension
to be filtered to the plurality of filter modules;

at least one permeate space for common discharging of permeate;
a feed pump for supplying the suspension to be filtered into the at least one feed space; and
at least one feed distribution space positioned laterally at least partially around the at least one feed space,
wherein the at least one feed space comprises:
a feed distribution opening; and
an aeration device around which the suspension to be filtered flows, and
wherein the feed distribution opening is arranged so suspension to be filtered is guided into the at least one feed space from the at least one feed distribution space cross-wise with respect to the direction of flow through the filter modules.

Initially, Applicants submit that the Examiner again did not address each of the features of claim 14, and as such, the rejection of claim 14 is *per se* improper. Moreover, Applicants submit VRANITZKY in view of WATAYA and BLASE does not teach or suggest each of the features of the present invention. For example, Applicants submit VRANITZKY in view of WATAYA and BLASE at least does not teach or suggest at least one feed distribution space positioned laterally at least partially around the at least one feed space, as recited in claim 14. Furthermore, Applicants submit that the drawings of VRANITZKY appear to teach away from the Examiner-proposed modification of VRANITZKY in view of WATAYA and BLASE.

All Claim Features Not Addressed

Initially, Applicants respectfully submit that, in rejecting claim 14, the Examiner again failed to specifically address each of the claim features of the presently claimed invention. More specifically, the Examiner acknowledges that VRANITZKY “fails to teach positioning the feed distribution space laterally and at least partially surrounding the feed space.” However, in attempting to cure the deficiencies of VRANITZKY, the Examiner asserts only that WATAYA teaches “proving [sic] the feed tank or feed space around the feed inlet to a feed space in an

aerated filtration module (elements 110, 3, 301).” That is, the Examiner does not assert that WATAYA teaches those features of claim 14 identified as deficient in VRANITZKY (i.e., a feed distribution space positioned laterally and at least partially around the feed space).

As such, Applicants respectfully submit that the Examiner has failed to properly address each of the features of the presently claimed invention. Thus, Applicants submit the rejection is *per se* improper and, as discussed further below, that the Examiner has presented an incomplete Office Action and an unclear record.

No Teaching or Suggestion of At Least One Feed Distribution Space Positioned Laterally At Least Partially Around The At Least One Feed Space

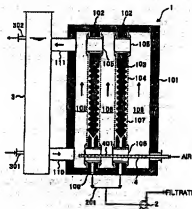
Applicants submit that VRANITZKY in view of WATAYA and BLASE does not teach or suggest at least one feed distribution space positioned laterally at least partially around the at least one feed space, as recited in claim 14. As discussed above, in addressing claim 14, the Examiner acknowledges that VRANITZKY “fails to teach positioning the feed distribution space laterally and at least partially surrounding the feed space.” However, the Examiner asserts that WATAYA cures the deficiencies of VRANITZKY, and that it would have been obvious to combine these documents. Applicants respectfully disagree.

As noted above, the Examiner asserts that WATAYA teaches “proving [sic] the feed tank or feed space around the feed inlet to a feed space in an aerated filtration module (elements 110, 3, 301).” Moreover, in the Examiner Interview dated May 24, 2010, the Examiner confirmed that she considered the circulating tank 3 of WATAYA as the recited feed distribution space.

Applicants have reproduced Figure 1 of WATAYA below, which illustrates the Examiner-designated feed distribution space (i.e., circulating tank 3). As explained in

WATAYA, sludge from the circulating tank 3 flows into the interior of the membrane apparatus 1 via the sludge inlet 110, and flows into the inter-membrane passages 108.

FIG.1



Applicants submit that the circulating tank 3 cannot constitute the recited feed distribution space, as recited in claim 14, as the circulating tank 3 is not positioned laterally at least partially around the at least one feed space (i.e., membrane apparatus 1). Instead, as shown in Figure 1 of WATAYA, the Examiner-designated feed distribution space (i.e., the circulating tank 3) is positioned at a distance from the feed space, such that the Examiner-designated feed distribution space (i.e., the circulating tank 3) cannot arguably be positioned laterally at least partially around the at least one feed space, as recited in claim 14. That is, as the Examiner-designated feed distribution space (i.e., the circulating tank 3) is positioned at a distance from the feed space with no direct contact between the two elements, Applicants respectfully submit that one of skill in the art would not understand WATAYA to teach at least one feed distribution space positioned laterally at least partially around the at least one feed space, as recited in claim 14.

In this regard, Applicants note that “claims must be read in view of the specification, of which they are a part,” *Stumbo v. Easman Outdoors Inc.*, No. 2007-1186 (Fed. Cir. 2007), and that claims must be given their “broadest reasonable interpretation consistent with the specification.” *In re Cortright*, 165 F.3d 1353, 1358 (Fed. Cir. 1999) (citing *In re Bond*, 910 F.2d 831, 833 (Fed. Cir. 1990)). In this regard, the “broadest reasonable interpretation” standard must be one that “would be understood by one of ordinary skill in the art, taking into consideration the description of the Appellant’s specification.” *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

Thus, Applicants submit that one ordinarily skilled in the art reviewing the pending disclosure and claims would not understand WATAYA to disclose at least one feed distribution space positioned laterally at least partially around the at least one feed space, as recited in independent claim 14.

In the Examiner Interview of May 24, 2010, the Examiner indicated that she considers the circulating tank 3 to be positioned laterally at least partially around the membrane apparatus 1. However, as a review of the figures of WATAYA reveals that circulating tank 3 is arranged parallel to and offset from the membrane apparatus 1, Applicants submit the Examiner has not identified any credible documentary evidence to support her assertion that a circulating tank arranged parallel to and offset from a membrane apparatus (as shown in WATAYA’s figures) would be understood by one ordinarily skilled in the art as at least partially around the membrane apparatus. Thus, Applicants respectfully submit the Examiner’s interpretation of “positioned laterally at least partially around” is unreasonable and unsupported, and would not be understood by one of ordinary skill in the art, taking into consideration the description of the Applicants’ specification.

Moreover, Applicants note that the arrangement of WATAYA (i.e., circulating tank 3 flowing into the interior of the membrane apparatus 1 via the sludge inlet 110) would not be operable to provide a distribution of feed uniformly across the feed space, as described in the instant application at paragraph [0012] (as numbered in published application 2008/0135497). That is, paragraph [0012] states:

The feed space should be fed uniformly with suspension, which can be achieved by connecting an antechamber used to calm the flow (feed distribution space) upstream of the feed space, which antechamber runs at least partially around the feed space, it being possible for suspension that is to be filtered to penetrate into the feed space from the supply line along the feed space. This can be achieved by a feed distribution opening, which is continuous in the circumferential direction of the feed space, in the lower region of the feed space.

Applicants submit, however, that the arrangement of WATAYA would not be operable to provide a distribution of suspension uniformly across the feed space. That is, with WATAYA the sludge inlet 110 feeds into the membrane apparatus 1. Moreover, there is no suggestion in WATAYA that the sludge inlet 110 provides for a uniform distribution of suspension. Furthermore, as sludge inlet 110 appears to be a tube with a circular cross-section, Applicants submit that the suspension will enter the membrane apparatus 1 at a single point, which will cause a non-uniform feed of suspension.

Thus, for at least these reasons, Applicants respectfully submit VRANITZKY in view of WATAYA and BLASE fails to teach or suggest at least one feed distribution space positioned laterally at least partially around the at least one feed space, as recited in claim 14, and fails to render the present invention unpatentable.

No Motivation To Combine in Manner Asserted

Additionally, Applicants submit it would not have been obvious to combine VRANITZKY with WATAYA and BLASE in the manner asserted. The Examiner asserts that “by selecting the feed distribution space (tank 3) of [WATAYA], the skilled artisan can predict a reduction in piping in the system.” As noted in the Examiner Interview of May 24, 2010, Applicants understand the Examiner to be combining the circulating tank 3 of WATAYA with the VRANITZKY apparatus.

However, as VRANITZKY and WATAYA each teach mechanisms for the same purpose, Applicants submit that it would not have been obvious to one of ordinary skill in the art to add circulating tank 3 of WATAYA to the device of VRANITZKY. That is, the VRANITZKY device already includes a circulating tank (i.e., container 41). As such, Applicant submits that there would be no motivation to add a second circulating tank as described in WATAYA, as such a combination would provide no further benefit, while complicating and increasing the cost of the VRANITZKY device (i.e., not a reduction in piping in the systems, as the Examiner asserts).

In the Examiner Interview of May 24, 2010, the Examiner clarified that the combination of VRANITZKY, WATAYA and BLASE involves the substitution of the circulating tank 3 of WATAYA for the container 41 of VRANITZKY. However, Applicants respectfully submit that, as the arrangement of the container 41 and membrane filter module 11 of VRANITZKY appears to be essentially the same arrangement as the circulating tank 3 and membrane apparatus 1 of WATAYA, i.e., a tank arranged in a spaced relationship with the filter module with connections there between, Applicants submit the substitution of the circulating tank 3 of WATAYA for the

container 41 of VRANITZKY would not lead to a predictable reduction in piping in the system, as the Examiner asserts.

Thus, for at least these reasons, Applicant submits it would not have been obvious to modify VRANITZKY with the circulating tank 3 of WATAYA, as the Examiner asserts.

Therefore, for at least these reasons, Applicants respectfully submit that no proper combination of VRANITZKY in view of WATAYA and BLASE can even arguably render unpatentable the embodiments of the invention recited in claim 14. Therefore, Applicants submit that pending rejection is improper and should be reconsidered and withdrawn.

Independent Claim 26

Independent claim 26 recites, in pertinent part:

- . . . supplying a suspension from at least one feed distribution space positioned laterally at least partially around at least one feed space to the at least one feed space;
- aerating the suspension in the at least one feed space;
- feeding the suspension through to a plurality of individually removable aerated filter modules arranged in at least one vessel in a direction cross-wise to a direction in which the suspension is supplied to the at least one feed space, whereby a permeate flows into at least one permeate space adjacent the plurality of individually removable aerated filter modules; and
- discharging the permeate from the at least one permeate space.

Initially, Applicants submit that the Examiner did not address each of the features of claim 26, and as such, the rejection of claim 26 is *per se* improper. Moreover, Applicants submit VRANITZKY in view of WATAYA and BLASE does not teach or suggest each of the features of the present invention. For example, Applicants submit VRANITZKY in view of WATAYA and BLASE at least does not teach or suggest supplying a suspension from at least one feed distribution space positioned laterally at least partially around at least one feed space to the at

least one feed space, as recited in claim 26. Furthermore, Applicants submit that VRANITZKY teaches away from the Examiner-proposed modification of VRANITZKY in view of WATAYA and BLASE.

All Claim Features Not Addressed

Initially, Applicants respectfully submit that, in rejecting previously presented claim 26, the Examiner again failed to specifically address each of the claim features of the presently claimed invention. More specifically, in addressing previously presented claim 26 (along with claims 27 and 28) the Examiner states, "as to claims 26 – 28, [VRANITZKY] teaches using the tubular membrane unit for filtering a suspension (abstract) in connection to the apparatus of figures 1 – 3."

As such, Applicants respectfully submit that the Examiner has failed to properly address each of the features of the presently claimed invention. Thus, Applicants submit the rejection is *per se* improper and, as discussed further below, that the Examiner has presented an incomplete Office Action and an unclear record.

No Teaching or Suggestion of Supplying A Suspension From At Least One Feed Distribution Space Positioned Laterally At Least Partially Around At Least One Feed Space To The At Least One Feed Space

Applicants submit that VRANITZKY in view of WATAYA and BLASE does not teach or suggest supplying a suspension from at least one feed distribution space positioned laterally at least partially around at least one feed space to the at least one feed space, as recited in claim 26. That is, for the reasons articulated above with regard to claim 14, Applicants respectfully submit that VRANITZKY in view of WATAYA and BLASE does not teach or suggest at least one

feed distribution space positioned laterally at least partially around at least one feed space, as recited in claim 26.

As such, Applicants respectfully submit that VRANITZKY in view of WATAYA and BLASE does not teach or suggest supplying a suspension from at least one feed distribution space positioned laterally at least partially around at least one feed space to the at least one feed space, and does not render claim 26 unpatentable.

No Motivation To Combine in Manner Asserted

Additionally, for the reasons articulate above with regard to claim 14, Applicants submit it would not have been obvious to combine VRANITZKY with WATAYA and BLASE in the manner asserted. That is, Applicants respectfully submit that such a combination would lead to duplicate mechanisms for the same purpose, and thus, no further benefit, while complicating and increasing costs. Moreover, Applicants submit that such a combination would not lead to a predictable reduction in piping in the system, as the Examiner asserts.

Therefore, for at least these reasons, Applicants respectfully submit that no proper combination of VRANITZKY in view of WATAYA and BLASE can even arguably render unpatentable the embodiments of the invention recited in claim 26. Therefore, Applicants submit that pending rejection is improper and should be reconsidered and withdrawn.

Dependent Claims 15 – 21, 25, 27 and 28

Applicants submit that claims 15 – 21, 25, 27 and 28 are allowable at least for the reason that these claims depend from respective allowable base claims and because these claims recite additional features that further define the present invention. In particular, Applicants submit that

no proper combination of VRANITZKY in view of WATAYA and BLASE can render obvious under 35 U.S.C. § 103(a) the embodiments of the invention recited in at least claims 15 – 21, 25, 27 and 28.

Claims 18, 21, 24, 27 and 28

Applicants submit that while claims 18, 21, 24, 27 and 28 were indicated as rejected, the features of claims 18, 21, 24, 27 and 28 were not specifically addressed. As such, Applicants submit that the rejections of claims 18, 21, 24 and 28 are *per se* improper, and that Examiner has presented an incomplete Office Action and an unclear record.

Claim 19

Applicants submit that VRANITZKY in view of WATAYA and BLASE fails to teach or suggest the features of claim 19. Claim 19 recites, in pertinent part:

... the feed distribution space further comprises a tap-off device to at least one of empty the filtration device and remove contaminants.

In addressing claim 19, the Examiner designates sludge inlet 301 of WATAYA as the recited tap-off device. Applicants respectfully submit that WATAYA explicitly teaches element 301 as an inlet, and not a tap-off device (or outlet), as the Examiner asserts. Moreover, as the Examiner-designated tap-off device (i.e., sludge inlet 301) is in fact an inlet, Applicants submit the Examiner-designated tap-off device would not be operable to at least one of empty the filtration device and remove contaminants, as recited in claim 19.

Thus, for at least these reasons, Applicants submit VRANITZKY in view of WATAYA and BLASE fails to teach or suggest the features of claim 19, and does not render the instant invention unpatentable.

Therefore, for at least these reasons, Applicants submit that VRANITZKY in view of WATAYA and BLASE fails to teach or suggest the features of claims 14 – 21 and 25 – 28, and does not render the present invention unpatentable. Accordingly, for at least these reasons, Applicants request that the Examiner reconsider and withdraw the rejection of claims 14 – 21 and 25 – 28 under 35 U.S.C. § 103(a) and indicate that claims 14 – 21 and 25 – 28 are allowable.

3. Over VRANITZKY in view of WATAYA and BLASE and further in view of ANDO and RABIE

Applicants traverse the rejection of claims 22 – 24 under 35 U.S.C. § 103(a) as being unpatentable over VRANITZKY in view of WATAYA and BLASE and further in view of U.S. Patent No. 6,733,675 to Ando et al. [hereinafter ANDO] and U.S. Patent No. 6,881,343 to Rabie et al. [hereinafter RABIE]. The rejection is respectfully traversed.

Applicant notes that both ANDO and RABIE fail teach or suggest the subject matter noted above as deficient in VRANITZKY in view of WATAYA and BLASE, with respect to at least independent claim 14. In particular, Applicants note that both ANDO and RABIE fail to disclose or even suggest at least one feed distribution space positioned laterally at least partially around the at least one feed space, as recited in claim 14.

As none of the applied documents disclose or suggest the above-noted subject matter recited in at least Applicant's independent claim 14, Applicants submit that no proper combination of VRANITZKY in view of WATAYA, BLASE, ANDO and RABIE can even

arguably render unpatentable the embodiments of the invention recited in the pending claims. Therefore, Applicants submit that pending rejection is improper and should be reconsidered and withdrawn.

Further, Applicants submit that claims 22 – 24 are allowable at least for the reason that these claims depend from an allowable base claim and because these claims recite additional features that further define the present invention. In particular, Applicants submit that no proper combination of VRANITZKY in view of WATAYA, BLASE, ANDO and RABIE can render obvious under 35 U.S.C. § 103(a) the embodiments of the invention recited in at least claims 22 – 24.

Accordingly, Applicants request that the Examiner reconsider and withdraw the rejection of claims 22 – 24 under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

Application is Allowable

Thus, Applicants respectfully submit that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 102 and 103, and respectfully request the Examiner to indicate allowance of each and every pending claim of the present invention.

Complete Action Not Provided

Applicants respectfully submit that the Examiner did not address each of the features of claims 14, 18, 21, 24, and 26 – 28, as noted above. Thus, Applicants respectfully submit that the Examiner has not set forth a complete action or a clear record. The Examiner is reminded of

the guidance provided by 37 C.F.R. § 1.104(a)(1) regarding the Nature of Examination (emphasis added):

On taking up an application for examination . . . the examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the claimed invention. The examination shall be complete with respect to both compliance of the application . . . with the applicable statutes and rules and to the patentability of the invention as claimed, as well as with respect to matters of form, unless otherwise indicated.

Furthermore, the Examiner is respectfully reminded of the guidance provided by MPEP § 2143.03 regarding All Claim Limitations Must be Taught or Suggested, which states (emphasis added):

. . . [a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.

For these reasons, Applicants submit that a clear issue was not developed between the Examiner and Applicant. More specifically, MPEP §706 states:

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection.

Additionally, MPEP 706.07(a) notes:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). . . .

Furthermore, a second or any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17 (p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

Accordingly, Applicants respectfully request that the Examiner address the untreated features of the claimed invention, such that a clear issue is developed between the Examiner and Applicants. Moreover, Applicants respectfully submit that the finality of the instant action should be withdrawn, and the next action, which should clarify the record, should not be a final action.

CONCLUSION

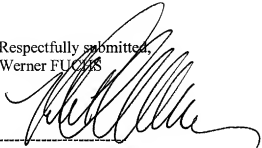
In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicants' invention, as recited in claims 14 - 30. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.

Authorization is hereby given to charge any fees necessary for the consideration of this amendment to deposit account No. 19-0089.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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